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EXAMINER

EDELMAN, B

ART UNIT

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2153

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4

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/449,237

Applicant(s)

Curry

Examiner

Bradley Edelman

Group Art Unit

2757



☒ Responsive to communication(s) filed on Nov 24, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-80 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-80 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2,3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4-5, 9, 11-19, and 26-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levergood et al. (U.S. Patent No. 5,708,780, hereinafter "Levergood"), in view of Szabo (U.S. Patent No. 5,954,640), and further in view of Baker et al. (U.S. Patent No. 5,678,041, hereinafter "Baker").

In considering claim 1, Levergood discloses a method of providing services to an authorized user through a distributed communications network, comprising:

sending a request from a portal to an on-line site (col. 3, lines 21-23);

assigning an access code to the user, the access code defining a level of services available to the user (col. 3, lines 30-31, 50-53); and

providing services to the user through the distributed network that correspond to the user's access code (col. 6, lines 5-16).

However, Levergood fails to disclose that the site is a wellness related site, that includes at least one of wellness, health, or fitness services. Nonetheless, systems in which users are supplied

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wellness, health, and fitness services from a wellness related site are well known, as evidenced by Szabo. In a similar art, Szabo discloses a system in which a user can send requests and information to a wellness related site, and wherein users get different types of service (col. 6). Given the teaching of Szabo, a person having ordinary skill in the art would of readily recognized the desirability and advantages of using the access-level authorization system taught by Levergood, in order to control access to wellness related information, as disclosed by Szabo, so that users of the system can monitor their personal wellness related information in order to maintain their health. Therefore, it would have been obvious to use the authorization method taught by Levergood in the wellness related site taught by Szabo.

Although the combined teaching of Levergood and Szabo discloses substantial features of the claimed invention, it fails to explicitly disclose identifying a portal with a portal identifier, storing the identifier in a database, and processing the request at a controller to determine whether the request was from the portal. Nonetheless, these steps of verifying a requesting portal are well known, as evidenced by Baker. In a similar art, Baker discloses a system for selectively controlling access to a central information source, wherein a requesting machine ID is verified by a server, and compared to a list of IDs stored in a database, in order to allow the requesting machine to access the server (col. 4, lines 17-29). Given the teaching of Baker, a person having ordinary skill in the art would have readily recognized the desirability and advantages of using a machine id, as taught by Baker, for verification in the system taught by Levergood and Szabo, in

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order to improve system security. Therefore, it would have been obvious to use the machine ID verification taught by Baker in the system taught by Levergood and Szabo.

In considering claim 2, Levergood further discloses identifying the authorized user with a user identifier, storing the user id in a database, and processing the request to determine whether the request was from the authorized user (col. 6, lines 58-65).

In considering claims 4-5, Szabo further discloses the claimed retail site (col. 6, lines 44-51).

In considering claim 9, Szabo further discloses sending user identifying data through the distributed network (col. 4, lines 64-65).

In considering claim 11, Szabo further discloses gathering user lifestyle information (col. 3, lines 56-58; col. 4, lines 64-67).

In considering claim 12, Szabo further discloses adapting the level of services provided to the user based on the user's lifestyle information (col. 3, lines 58-61; col. 5, lines 1-10).

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In considering claim 13, Szabo further discloses that the distributed network can be the Internet (col. 12, lines 63-64).

In considering claims 14 and 15, Levergood and Szabo further disclose the claimed electronic statements (Levergood, col. 9, lines 1-3; Szabo, col. 16, lines 10-11).

In considering claim 16, Szabo further discloses tendering payment information at the portal (credit card information), and transmitting the payment information from the portal to the wellness related site through the network (col. 16, lines 8-10).

In considering claim 17, Levergood further discloses assigning the access code in part on whether the user has been pre-authorized to receive the services from the server (col. 3, lines 44-55).

In considering claim 18, Levergood further discloses providing payment prior to requesting, and pre-authorizing the user to receive goods or services based on the payment (col. 8, lines 61-67). Although Levergood does not use the term "sponsor" a sponsor is inherently necessary in the system, since some sponsor must be providing the disclosed documents.

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In considering claim 19, Szabo further discloses that payments may be made to a third party (col. 16, lines 11-14).

In considering claim 26, Szabo further discloses providing user lifestyle information to the portal, and providing practical guidelines and advice to the user (col. 4, line 64 - col. 5, line 10).

In considering claims 27-29, Szabo further discloses assigning users to control groups, and providing goods and services, including user improvement plans to users based on the groups (col. 9, line 66 - col. 10, line 9).

In considering claim 30, Szabo further discloses providing models by experts in the field of the control and creating practical guidelines based on the models (col. 10, lines 11-15).

In considering claim 31, Szabo further discloses providing group result data to the portal, storing the result data to the group result data for the authorized user's control group, and adjusting the user improvement plan for each user in the group based on the stored group result data (col. 10, lines 1-34).

In considering claim 32, Szabo further discloses checking if the user improvement plan for users in the control group needs to be adjusted (col. 12, lines 45-52). It would have been obvious

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to a person having ordinary skill in the art to provide an alarm signal to the system administrator if adjustments are needed to make a human aware of potentially harmful drug interactions.

In considering claim 33, Szabo further discloses storing result data for the authorized user, and assigning the user to a new control group based on the stored data (col. 10, lines 15-34).

In considering claims 34-36, Szabo further discloses storing wellness related information, creating a wellness related profile, assessing the information to evaluate the user wellness profile, updating the information, and offering practical guidelines and advice to the user based on the profile (col. 4, line 64 - col. 5, line 32).

In considering claim 37, Szabo further discloses retaining a profile history of stored wellness related information, sending the profile history to the portal, and monitoring the history at the portal (col. 15, lines 5-14).

3. Claims 38-40, 43, 45-53, and 60-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levergood, in view of Szabo.

In considering claim 38, Levergood discloses a method of providing services through a distributed communications network, comprising:

    sending a request from a portal to an on-line site (col. 3, lines 21-23);



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processing the request at a controller to determine whether the request was received from an authorized user (col. 6, lines 58-60);

assigning an access code to the user if the user is authorized, the access code defining a level of services available to the user (col. 3, lines 30-31, 50-53); and

providing services to the user through the network that correspond to the user's access code (col. 6, lines 5-16).

However, Levergood fails to disclose that the site is a wellness related site, that includes at least one of wellness, health, or fitness services. Nonetheless, systems in which users are supplied wellness, health, and fitness services from a wellness related site are well known, as evidenced by Szabo. In a similar art, Szabo discloses a system in which a user can send requests and information to a wellness related site, and wherein users get different types of service (col. 6). Given the teaching of Szabo, a person having ordinary skill in the art would of readily recognized the desirability and advantages of using the access-level authorization system taught by Levergood, in order to control access to wellness related information, as disclosed by Szabo, so that users of the system can monitor their personal wellness related information in order to maintain their health. Therefore, it would have been obvious to use the authorization method taught by Levergood in the wellness related site taught by Szabo.

In considering claim 39-40, Szabo further discloses the claimed retail site (col. 6, lines 44-51).

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In considering claim 43, Szabo further discloses sending user identifying data through the distributed network (col. 4, lines 64-65).

In considering claim 45, Szabo further discloses gathering user lifestyle information (col. 3, lines 56-58; col. 4, lines 64-67).

In considering claim 46, Szabo further discloses adapting the level of services provided to the user based on the user's lifestyle information (col. 3, lines 58-61; col. 5, lines 1-10).

In considering claim 47, Szabo further discloses that the distributed network can be the Internet (col. 12, lines 63-64).

In considering claims 48 and 49, Levergood and Szabo further disclose the claimed electronic statements (Levergood, col. 9, lines 1-3; Szabo, col. 16, lines 10-11).

In considering claim 50, Szabo further discloses tendering payment information at the portal (credit card information), and transmitting the payment information from the portal to the wellness related site through the network (col. 16, lines 8-10).

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In considering claim 51, Levergood further discloses assigning the access code in part on whether the user has been pre-authorized to receive the services from the server (col. 3, lines 44-55).

In considering claim 52, Levergood further discloses providing payment prior to requesting, and pre-authorizing the user to receive goods or services based on the payment (col. 8, lines 61-67). Although Levergood does not use the term "sponsor" a sponsor is inherently necessary in the system, since some sponsor must be providing the disclosed documents.

In considering claim 53, Szabo further discloses that payments may be made to a third party (col. 16, lines 11-14).

In considering claim 60, Szabo further discloses providing user lifestyle information to the portal, and providing practical guidelines and advice to the user (col. 4, line 64 - col. 5, line 10).

In considering claims 61-63, Szabo further discloses assigning users to control groups, and providing goods and services, including user improvement plans to users based on the groups (col. 9, line 66 - col. 10, line 9).

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In considering claim 64, Szabo further discloses providing models by experts in the field of the control and creating practical guidelines based on the models (col. 10, lines 11-15).

In considering claim 65, Szabo further discloses providing group result data to the portal, storing the result data to the group result data for the authorized user's control group, and adjusting the user improvement plan for each user in the group based on the stored group result data (col. 10, lines 1-34).

In considering claim 66, Szabo further discloses checking if the user improvement plan for users in the control group needs to be adjusted (col. 12, lines 45-52). It would have been obvious to a person having ordinary skill in the art to provide an alarm signal to the system administrator if adjustments are needed to make a human aware of potentially harmful drug interactions.

In considering claim 67, Szabo further discloses storing result data for the authorized user, and assigning the user to a new control group based on the stored data (col. 10, lines 15-34).

4. Claims 3, 6-8, 10, 20-25, 41-42, 44, 54-59, and 68-71, and 73-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levergood, in view of Szabo and Baker, and further in view of Britt (Savings & Community Banker, "The ATM Connection", Washington, Sep. 1994).

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In considering claims 3, 6-8, 10, 20-25, 41-42, 44, 54-59, although the combined teaching of Levergood, Szabo, and Baker discloses substantial features of the claimed invention, it fails to explicitly disclose whether portals are sponsored or non-sponsored. Nonetheless, the use of sponsored and non-sponsored portals for connecting to a network in a commercial environment is well known, as evidenced by Britt. In a similar art, Britt describes the ATM (Automated teller machine), which is a networked system wherein users make requests from sponsored and non-sponsored locations (i.e., users can connect to the central bank server from one of various banks' ATM machines). Thus, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including sponsored and non-sponsored portals in the system taught by Levergood, Szabo, and Baker, so that when users log in from kiosks or other vendor-provided terminals (see col. 6, lines 5-9, 47-56; col. 14, lines 8-16), the sponsors of the terminals (i.e. a pharmacy or health center) can offer competitive features and/or prices in order to attract customers. Therefore, it would have been obvious to include sponsored and non-sponsored terminals, as taught by Britt, in the system taught by Levergood, Szabo, and Baker.

In further considering claims 6 and 41, Britt further discloses charging users according to the type of portal (page 4, paragraph 6, wherein "foreign transaction fees" will vary according to whether the portal is sponsored or non-sponsored).

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In further considering claims 3, 7-8, 10, 25, 42, and 44, and 59, the claimed steps of determining what type of terminal the request was sent from, and assigning the code according to which type of terminal the requested terminal was sent from are inherently necessary in the combined system taught by Levergood, Szabo, Baker, and Britt, in order to perform the tasks disclosed by Britt, such as charging users according to the type of portal.

In further considering claims 20-22, and 54-56, Szabo further discloses retaining a user's wellness related profile, and updating the user's profile from the portal (col. 5). It would have been obvious to a person having ordinary skill in the art allow the user to update the profile from sponsored or non-sponsored portals so that users can update their profiles from any available location.

In further considering claims 23-24 and 57-58, Baker further discloses providing services to a user depending on access to a specific portal (col. 4, lines 17-29). It would have been obvious to a person having ordinary skill in the art to extend this provision of services to include sponsored and/or non-sponsored portals as disclosed by Britt, so that the sponsors of the terminals (i.e. a pharmacy or health center) can offer competitive features and/or prices in order to attract customers.

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Claims 68-69, 73-78, and 80, contain no further limitations over the previously discussed claims, and are thus unpatentable for the reasons stated previously.

In considering claim 70, Szabo further discloses gathering user fitness, nutrition, and wellness information when a user first connects the portal to the on-line site (col. 13, lines 58-67).

In considering claim 71, Szabo further discloses updating the fitness, nutrition, and wellness information over time (col. 15, lines 9-10).

In considering claim 79, Szabo further discloses retaining data on goods for sale and goods sold to the user (col. 16, lines 16-39).

5. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levergood, in view of Szabo, Baker, and Britt, and further in view of Salus Media Inc. (PCT No. WO99/03045, hereinafter "Salus").

In considering claim 72, although the combined teaching of Levergood, Szabo, Baker, and Britt discloses substantial features of the claimed invention, it fails to explicitly disclose the inclusion of e-mail. Nonetheless, the inclusion of e-mail in a wellness related distributed network service is well known, as evidenced by Salus. In a similar art, Salus discloses a site for maintaining user wellness related information, wherein e-mail can be used to transmit information

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to and from the users (see p. 3, lines 3-20). Given the teaching of Salus, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including e-mail in the system taught by Levergood, Szabo, Baker and Britt, so that messages could be easily sent between users and administrators in case user-specific questions were to arise. Therefore, it would have been obvious to include e-mail, as disclosed by Salus, in the system taught by Levergood, Szabo, Baker, and Britt.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

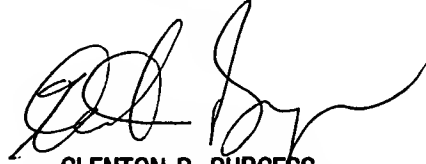
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Edelman whose telephone number is (703) 306-3041. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess, can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7201.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-3900.

BE

October 11, 2000

  
**GLENTON B. BURGESS**  
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